

Appl. No. 09/921,003
Reply to Restriction Requirement of 11/23/2004

REMARKS/ARGUMENTS

In a communication mailed November 23, 2004, the Examiner stated that the claims are subject to restriction and that election of one of the following Groups must be made:

- Group I: Claims 1-4.
- Group II: Claims 5-9 and 12.
- Group III: Claims 10, 11, 13 and 14.
- Group IV: Claim 15.
- Group V: Claims 16 and 17.
- Group VI: Claims 18-23.
- Group VII: Claims 24-33.

Applicant provisionally elects Group II. Applicant believes that the restriction requirement is improper with respect to Groups I - III. Therefore, Applicant respectfully traverses the restriction requirement with respect to Groups I - III.

The present application has a total of 33 claims, and the Office Action has restricted the claims into seven separate groups. Applicant respectfully submits that claims 1 - 14 should not be restricted into three separate groups (Groups I - III). Applicant does not traverse the restriction requirement with respect to Group IV, Group V, Group VI and Group VII.

Applicant notes that, if a restriction is required, “[t]here must be a serious burden on the examiner.” MPEP § 803. Additionally, according to the MPEP,

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

MPEP § 803 (emphasis added).

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It is believed that claims 1 - 14 (included in Groups I - III) can be examined in a single application without serious burden to the examiner. Applicant notes, for example, that an application corresponding to the present application has been filed under the Patent Cooperation Treaty. The International Search Report is being submitted herewith in an Information Disclosure Statement.

In the International Search Report, the International Searching Authority found only five groups of inventions. In this report, claims 1 - 14 were treated as a single group. A search was also performed with respect to such claims.

Applicant acknowledges that the unity of invention standard under the Patent Cooperation Treaty may apply differently than the criteria for restriction applicable to the present application. Nevertheless, Applicant believes that claims 1 - 14 can be examined in a single patent application without serious burden to the examiner. It is believed that the International Search Report is evidence of this.

Therefore, Applicant respectfully requests removal of the restriction requirement to the extent the restriction requirement applies to placing claims 1 - 14 into separate groups (Groups I, II, and IV), and that examination on the merits proceed with all such claims 1 - 14 in the present application.

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CONCLUSION

Applicant submits that the instant application is in condition for allowance. Should the Examiner have any questions, the Examiner is requested to contact the undersigned attorney.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 25720.702).

Respectfully submitted,

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